

Meier Franzino & Scher, LLP
Attorneys for Defendants
Joseph DiMauro, Eastern Energy
Fuels, Inc. and Clark Dodge and
Company, Inc.
570 Lexington Avenue, 26th Floor
New York, New York 10022
(212) 759-9770
and
Winne Banta Hetherington Basralian & Kahn, P.C.
Court Plaza South – East Wing
21 Main Street, Suite 101
P.O. Box 647
Hackensack, New Jersey 07601-0647
(203) 487-3800

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MASEFIELD INTERNATIONAL, INC.,

Plaintiff,

-against-

**TERMINAL VENTURES, INC., JOSEPH
DIMAURO, EASTERN ENERGY
FUELS, INC., and CLARK DODGE AND
COMPANY, INC.**

Index No. 08-3850 (JLL) (CCC)

Document Electronically Filed

Defendants

TERMINAL VENTURES, INC.

**STATEMENT OF UNDISPUTED
FACTS**

Third-Party Plaintiff,

-against-

**MASEFIELD AG, ARAL WIND LTD.,
M/T ARAL WIND, its engines, tackle,
apparel, etc., LIBERTY MUTUAL
INSURANCE COMPANY, and JOHN
DOE**

Third Party Defendants.

STATEMENT OF UNDISPUTED FACTS

Pursuant to Federal Rule of Civil Procedure 56 and in support of its motion for summary judgment, Defendant Clark Dodge & Co., Inc. (“Clark Dodge”), by its attorneys, Meier Franzino & Scher, L.L.P. submit this Statement of Undisputed Facts:

THE PARTIES

1. Defendant Clark Dodge is a corporation duly organized pursuant to the laws of the State of Florida and is a brokerage firm duly registered with FINRA (CRD # 23288) and with the SEC. Clark Dodge maintains its principal place of business at 2 Gannett Drive, White Plains, New York. Deposition of Joseph DiMauro dated June 24, 2009 (“DiMauro Deposition”) annexed hereto as Exhibit “A” at page 9.
2. Defendant DiMauro is the Chief Executive Officer of Clark Dodge. Id.
3. Defendant DiMauro has lent TVI substantial funds over the years. DiMauro Deposition at page 31-32.
4. Defendant Terminal Ventures, Inc. (“TVI”) is a corporation duly organized pursuant to the laws of the State of New Jersey and maintains its principal place of business located at 195 Howell Street, Jersey City, New Jersey. TVI is in the business of owning and operating an oil terminal. See Deposition of Jeffrey Pressman dated April 23, 2009 (“Pressman Deposition”) annexed hereto as Exhibit “B” at page 19-21. See DiMauro Deposition at page 29-30.
5. Jeffrey Pressman (“Mr. Pressman”) and Andrew Hritz (“Mr. Hritz”) oversee the daily operations of TVI. Pressman Deposition at page 11. See Deposition of Andrew Hritz dated June 25, 2009 (“Hritz Deposition”) annexed hereto as Exhibit “C” at page 8.

6. Jeffrey Pressman confirmed that Mr. DiMauro was the only lender TVI had. See Pressman Deposition at page 23-26.
7. The president of TVI is Fernando Marquez ("Mr. Marquez") who resides in the Bahamas and functions in a marketing capacity for TVI. See Pressman Deposition at pages 10-11.
8. Plaintiff Masefield International is a corporation duly organized pursuant to the laws of the State of Delaware and maintains its principal place of business located at 3050 Post Oak Boulevard, Suite 1330, Houston, Texas. See Second Amended Complaint ("the Complaint") annexed hereto as Exhibit "D" at paragraph 1.
9. Clark Dodge answered and denied the allegations of the Second Amended Complaint. See Clark Dodge's Answer annexed hereto as Exhibit "E".
10. Clark Dodge is mentioned in only six paragraphs of the Complaint (which includes 74 paragraphs) and is included in only one count. See Exhibit D at paragraphs 5, 31(h), 65-66, 69, and 72.

THE UNDERLYING TRANSACTIONS

11. TVI and Masefield entered into a contract on or about March 27, 2007, whereby Masefield used the facilities at TVI to store and blend biofuels. See Contract dated March 27, 2007 annexed hereto as Exhibit "F". See Pressman Deposition at page 48.
12. Masefield alleges that it lent money to TVI to repair TVI's south dock after a ship carrying product to the TVI oil terminal collided with the south dock in October 2007. See Complaint at paragraph 17.
13. Masefield alleges that TVI breached the Contract as of November 1, 2007.

TVI, AND CLARK DODGE ARE SEPARATE CORPORATIONS

14. TVI had approximately ten (10) employees in 2007- 2009. See General Ledger for TVI dated June 30, 2009 annexed hereto as Exhibit "G".
15. Clark Dodge has about forty-five (45) employees, who work as stockbrokers and office staff- none of whom work for TVI. See DiMauro Deposition at page 9.
16. Neither Pressman, nor Hritz nor Marquez are on the board of directors of Clark Dodge. See FINRA report on Clark Dodge at page annexed hereto as Exhibit "H".
17. Clark Dodge did not make any loans to TVI. See DiMauro Deposition at page 48; See General Ledger for TVI.

CLARK DODGE INCLUDES TVI EMPLOYEES ON MEDICAL PLAN AND IS

REIMBURSED BY TVI

18. Clark Dodge included TVI employees on its medical plan in 2007, and TVI paid Clark Dodge for the employees covered. See Deposition of Jeffery Pressman dated September 9, 2009 ("Pressman Deposition II") annexed hereto as Exhibit "I" at page 30.
19. Clark Dodge transmitted bills for medical coverage for TVI's employees through Clark Dodge's medical insurance plan on January 29, 2007; February 1, 2007; May 1, 2007 and July 1, 2007. See Accounts Payable Ledger for TVI annexed hereto as Exhibit "I".
20. TVI paid Clark Dodge for the medical insurance through a series of checks dated January 31, 2007 (\$3875.00); March 21, 2007 (\$3582.35); April 13, 2007 (\$4232.90); June 28, 2007 (\$4232.90); July 5, 2007 (\$4232.90). Id.

Dated: New York, New York
February 24, 2012

MEIER FRANZINO & SCHER, LLP


By: Frank J. Franzino, Jr.,
*Attorneys for Defendants Joseph
DiMauro, Eastern Energy Fuels,
Inc., and Clark Dodge and
Company, Inc.*
570 Lexington Avenue, 26th Floor
New York, NY 10022
212-759-9770
And

Winne Banta Hetherington Basralian
& Kahn, P.C.
Court Plaza South – East Wing
21 Main Street, Suite 101
P.O. Box 647
Hackensack, New Jersey 07601
203-487-3800

TO: Robert G. Clyne, Esq.
HILL RIVKINS LLP
*Attorney for Plaintiff, Masefield International Inc. and Third Party Defendant,
Masefield AG*
102 South Broadway
South Amboy, New Jersey 08879-1638
(732) 838-0800

Gerard S. Doyle, Jr., Esq.
Law Offices of Doyle & Doyle
Attorney for Defendant and Third Party Plaintiff, Terminal Ventures, Inc.
636 Morris Turnpike
Short Hills, New Jersey 07078
(973) 467-4433